

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

Present: Sri. S S Nakul, I.A.S.  
Deputy Commissioner,  
Uttar Kannada, Karwar.

No. RB/RTR/CR-19/16-17



**Between**

1. Sri. Narayan Ganapati Kurdekar  
R/o Keshav Sheet Road , Tq: Karwar.  
(Represented through Advocate Sri S.K Pawar)

.... Revision Petitioner

V/s

1. Smt. Mangala D/o Chandrakant Kurdekar  
@ Pooja W/o Divakar Kurdekar  
R/o Gindiwada, Tq: Karwar.  
(Represented through Advocate Sri S.Ravi Belurkar)

.... Respondent

**Sub:** Revision Petition filed u/s 136(3) of Karnataka Land Revenue Act 1964 against the order of Assistant Commissioner, Karwar in file No. RTS/AP/CR-69/2013-14 dated: 4-12-2015 in respect of Mutation entry No. 382/2010-11 pertaining to Sy no. 543A of Baad-II village in Karwar Taluka.

**Preamble:**

The instant appeal has been passed against the order of Assistant Commissioner, Karwar in file No. RTS/AP/CR-69/2013-14 dated: 4-12-2015. Notices were issued to both parties.

**The brief facts of the case are as follows:**

The suit land Sy.No. 543A of Baad-II village in Karwar Taluk originally belonged to Late Smt. Sundarabai Ganapati Kurdekar, during her life time she executed WILL in the name of Shri Chandrakant Ganapati Kurdekar and Shri Narayan Ganapati Kurdekar dated 15-3-1990. This WILL was registered at Sub-registrar Karwar on 16-3-1990. She died on 23-2-1991, after her death the land was mutated in the name of Shri Chandrakant Ganapati Kurdekar and Shri Narayan Ganapati Kurdekar as per mutation entry No. A6372 dated 3-1-1995. The father of respondent i.e Shri Chandrakant Ganapati Kurdekar died on 31-7-1997 and subsequently his son Shri Vital Chandrakant Kurdekar died on 26-7-2010. The legal heirs of Late Chandrakant Ganapati Kurdekar are (1) Smt Shalini Chandrakant Kurdekar and Smt. Mangala Chandrakant Kurdekar @ Pooja kom Divakar Revanker. Since the wife of Late Chandrakant Ganapati Kurdekar, Smt Shalini Chandrakant Kurdekar also died on 26-7-2010. After her death Smt. Mangala Chandrakant Kurdekar @ Pooja kom Divakar Revanker applied for legal heir mutation entry for the Sy.No. 543A of Baad-II Village for an extent of 0-1-15 and got mutated the land in her name as per Baad-II mutation entry No. 382/2010-11 dated 20-6-2011. This mutation entry was challenged before Assistant Commissioner, Karwar by one Shri Narayan Ganapati Kurdekar the son of Late Smt. Sundarabai Ganapati Kurdekar and Assistant Commissioner, Karwar after hearing the case dismissed the appeal by passing order that revenue courts have no jurisdiction to enquire regarding validity of the WILL. Being aggrieved by this order the revision petitioner filed the revision petition before this court.

**The Advocate for the petitioner argued that:**

1. The order passed by Assistant Commissioner, Karwar is contrary to law and true facts of the case and is liable to be set-aside.
2. The Assistant Commissioner, Karwar failed to note that Tahasildar Karwar failed to give notice u/s 129 of Karnataka Land Revenue Act as revision petitioner was also a party in this case.
3. The learned Assistant Commissioner, Karwar failed to note that the respondent or her father Chandrakant Kurdekar has no right title and interest in the land as per the WILL.
4. The Assistant Commissioner, Karwar failed to note that the Tahasildar Karwar has failed to consider the genuine right of the Appellant and wrongly observed that the Revision Petitioner to approach Civil Court.
5. Hence he requested to allow the petition and remand the matter for detailed enquiry made in respect of mutation entry.

The advocate for the Respondent not produced any written or oral argument. So it has been decided to dispose the case with the records available in the case.

**The question before this court is :-**

1. Whether Revenue Courts has jurisdiction to decide about the genuineness of the documents pertaining to mutation entries when the mutation entry is already affected.

**Answer :-** Negative

On perusal of the lower court records and written argument of the revision petitioner it reveals that the suit land Sy.No. 543A of Baad-II village in Karwar Taluk originally belonged to Late Smt. Sundarabai Ganapati Kurdekar, during her life time she executed WILL in the name of Shri Chandrakant Ganapati Kurdekar and Shri Narayan Ganapati Kurdekar dated 15-3-1990. This WILL was registered at Sub-registrar Karwar on 16-3-1990. She died on 23-2-1991, after her death the land was mutated in the name of Shri Chandrakant Ganapati Kurdekar and Shri Narayan Ganapati Kurdekar as per mutation entry No. A6372 dated 3-1-1995. The father of respondent i.e Shri Chandrakant Ganapati Kurdekar died on 31-7-1997 and subsequently his son Shri Vital Chandrakant Kurdekar died on 26-7-2010. The legal heirs of Late Chandrakant Ganapati Kurdekar are (1) Smt Shalini Chandrakant Kurdekar and Smt. Mangala Chandrakant Kurdekar @ Pooja kom Divakar Revanker. Since the wife of Late Chandrakant Ganapati Kurdekar, Smt Shalini Chandrakant Kurdekar also died on 26-7-2010. After her death Smt. Mangala Chandrakant Kurdekar @ Pooja kom Divakar Revanker applied for legal heir mutation entry for the Sy.No. 543A of Baad-II Village for an extent of 0-1-15 and got mutated the land in her name as per Baad-II mutation entry No. 382/2010-11 dated 20-6-2011. This mutation entry was challenged before Assistant Commissioner, Karwar by One Shri Narayan Ganapati Kurdekar the son of Late Smt. Sundarabai Ganapati Kurdekar and Assistant Commissioner, Karwar after hearing the case dismissed the appeal by passing order that revenue courts have no jurisdiction to enquire regarding validity of the WILL. In this case the revision petitioner claim title under inheritance and the respondent claim title under the Will. As per the citation reported in 2005(4) KCCR 2323, when there is dispute regarding the Will, Civil court

alone has jurisdiction to decide who the owner of the land is. So in the instant case the revision petitioner has to approach the Civil Court to prove the Will. The revision petition is liable for dismissal.

Hence, I proceed the following order.

**No.RB/RTR/CR/19/16-17**

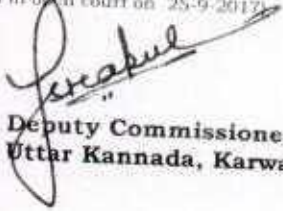
**Date: 25 -9-2017**

**Order**

Revision Petition is dismissed

(Order dictated to the Stenographer, got computerized, verified and pronounced in open court on 25-9-2017)



  
Deputy Commissioner,  
Uttara Kannada, Karwar

**Copy to:-**

1. Advocate Sri S.K Pawar and Sri SRani Belurkar for information.
2. Assistant Commissioner, Karwar for information and necessary action with Lower court file No. RTS/AP/CR-69/2013-14 dated: 4-12-2015. Page No.1 to page No.83.
3. Tahasildar Karwar for information and necessary action.